

The Munakata Clan Code of 1313

How a Clan of Hereditary Shrine Priests with Warrior Status Modernized Their Rule and Survived in Power

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1. Introduction

Rapid modernization of institutions, economics, and ways of thinking helped Japan retain its independence during and after the mid-nineteenth century impact of the Western sea-powers. One reason why rapid modernization succeeded was the administrative infrastructure left by the Tokugawa system, in particular the following features: Channels existed for shogunate, daimiate, and village authorities to communicate their orders to every citizen;¹ an efficient network of public power was present, from the village level upwards, which functioned according to written sources of law and stored information by means of statistics.² The number of literate and numerate men engaged in administration was larger than in other premodern societies because the shogunate and each of the more than 260 daimiates had to build their own staffs and each village had to have village officials who were farmers but yet had to learn how to handle accounts and official correspondence.³ The premodern

1 See Dan Fenno HENDERSON: “Promulgation of Tokugawa Statutes”, in *The Journal of Asian and African Studies* (Leiden, Holland), Vol. I (1967), pp. 9–25. Reprinted in David C. BUXBAUM (ed.): *Traditional and Modern Institutions in Asia and Africa*, Leiden (Brill) 1967, pp. 9–25.

2 See Christian WOLLSCHLAAGER: “Historical Trends of Civil Litigation in Japan, Arizona, Sweden, and Germany. Japanese Legal Culture in the Light of Judicial Statistics”, in Harald BAUM (ed.): *Japan – Economic Success and Legal System*, New York (de Gruyter) 1997, pp. 89–142, in part. pp. 111–113; and Herman OOMS: *Tokugawa Village Practice. Class, Status, Power, Law*, Berkeley & London (University of California Press) 1996, pp. 110–121.

3 See Dan Fenno HENDERSON (trans. & ed.): *Village “Contracts” in Tokugawa Japan. Fifty*

administrative framework was to a large extent built on written laws – an effort-saving device which began with the 8th century Ritsuryō codes and was never abandoned. To wit, the modern principles of “rule by law” (i.e., the official can do nothing to the citizen which is not permitted by the law) or “rule of law” (i.e., the citizen has means to uphold the law against the official) did not apply; law in Japan was always, like in modern dictatorships, a tool in the officialdom’s hands, to be used when convenient. But as administrative superiors could always use law as a legitimation to discipline inferiors, written laws came to play a particular role when warriors took over government and had to keep turbulent fellow-warriors in their service from acting contrary to their duties to their lord. Much Kamakura legislation served this aim. In the last decades of the rule of the Hōjō clan (1203–1333), Kamakura legislation, however, did not suffice to uphold order. Society had become monetarized, and class divisions no longer coincided with status boundaries; there were rich commoners and indigent warriors. Kyoto aristocrats, who had acted as *honke* 本家 (patron) or *ryōke* 令家 (proprietor) for lands commended to them by the original owner in order to avoid taxes, and who had in the early middle ages secured their economic interests through legislating for the officials and people living on the commended land, were now mostly passive capitalists. Thus, such tasks as increasing crops (*kannō* 勧農), mediating between tax-gathering owner-occupiers (*myōshu* 名主) and their tenant tillers, allocating shares of the land tax burden among the *myōshu*, and providing for markets, fell to Kamakura’s housemen policing and deriving rent from the land, the *jitō* 地頭. If they decided arbitrarily, they had constant complaints on their hand, and could lose favour with the shogunate. *Myōshu* possessed arms, and the whole agricultural population was litigious and sometimes violent.⁴ Con-

Specimens with English Translation and Comments, Seattle & London (University of Washington Press) 1975, pp. 12–13 and 20–23.

- 4 See Detlev TARANCZEWSKI: “Einige Aspekte der Entstehung des privaten Grundeigentumsrechts im mittelalterlichen Japan”, in Klaus Antoni et alii (eds.): *Referate des VII. Deutschen Japanologentages in Hamburg*, Hamburg (OAG) 1988 (Mitteilungen der Ostasiatischen Gesellschaft, Vol. 111), pp. 299–308; idem: *Lokale Grundherrschaft und Ackerbau in der Kamakura-Zeit. Dargestellt anhand des Nitta no shō in der Provinz Kōzuke*, Bonn 1988 (Bonner Zeitschrift für Japanologie, Vol. 10), pp. 81, 97–99, and 133; Thomas KEIRSTEAD: *The Geography of Power in Medieval Japan*, Princeton (Princeton University Press) 1992, Chapter Four, “The Theater of Protest”; Bruce L. BATTEN: “Provincial Administration in Early Japan. From Ritsuryō kokka to Ōchō kokka”, in *Harvard Journal of Asiatic Studies*, Vol. 53 No. 1 (1993), pp. 103–134, in part. pp. 129–132; Kristina Kade TROOST: “Peasants, Elites, and Villages in the Fourteenth Century”, in Jeffrey P. MASS (ed.): *The Origins of Japan’s Medieval World. Courtiers, Clerics, Warriors, and Peasants in the*

ditions were much different from what they were to be in the Tokugawa era, where the warriors held a monopoly on weapons. Laying down by-laws within the bounds of superior legislation, and announcing them, saved the *jitô* trouble. Further, if he did not do so, farmers' associations or artisans' or merchants' guilds might do so, possibly against his interests; and relying *only* on the Kamakura laws would not do, since they were piecemeal and not adapted to local conditions, but to the peculiar interests of the Hôjô clan and to the exigencies of military preparations against possible renewed Mongol attacks.

Thus we find toward the end of Hôjô rule, besides the three usual sources of law, namely, (1) modified Ritsuryô (*kuge hô*), (2) law laid down as *honjo hô* 本所法 by *honke* and *ryôke* for that particular *shôen* (estate), and (3) Kamakura law (*buke hô*), a new and fourth kind, namely, legislation by the local warrior chieftain,⁵ adapting Kamakura legislation to local conditions without contravening Kamakura legislation. Such by-laws are now historical sources for local conditions. Whether they had to be registered with the bakufu authorities, and to what extent bakufu courts took them into account, we do not know. Probably both questions should be answered in the affirmative, since the local warrior chieftain could gain favour with the bakufu through demonstrating that he actively promoted orderly government (*seidô* 政道), and since bakufu courts usually respected local customs – and the by-law was sort of objectified local custom. The first known by-law issued by a local warrior chieftain was that of the Utsunomiya clan of 1283.⁶ The next one known – and more interesting from several points of legal history – is that of the Munakata clan, of 1313. The Utsunomiya code is modestly called *shikijô* 式条 or “rulings”, and the Munakata Code carries the even more modest term *kotogaki jôjô* 事書条々 or “sectioned rulings”, thus avoiding the

Fourteenth Century, Stanford (Stanford University Press) 1997, pp. 91–109, in part. pp. 104–106; and Astrid BROCHLOS: *Grundherrschaft in Japan. Entstehung und Struktur des Minase no shô*, Wiesbaden (Harrassowitz) 2001 (Asien-und Afrika-Studien der Humboldt-Universität zu Berlin, Vol. 8), pp. 152–55.

5 See SATÔ Shin'ichi 佐藤進一, IKEUCHI Yoshisuke 池内義資, and MOMOSE Kesao 百瀬今朝雄 (trans. & ed.): *Chûsei hôsei shiryô shû* 中世法制資料集 I–III, Tokyo (Iwanami Shoten) 1973, Vol. 3 (*Buke kahô* 武家家法), pp. 399–400; and KATSUMATA Shizuo 勝俣鎮夫 in ISHII Susumu 石井進 et alii (eds.): *Chûsei seiji shakai shisô* 中世政治社会思想 (I), Tokyo (Iwanami Shoten) 1972 (*Nihon shisô taikai* 日本思想大系, Vol. 21), p. 497. In what follows, I quote the former volume as *CHSS III* followed by page number, and the latter volume as *CSSS* followed by page number.

6 See *CHSS III*, “Buke kahô I”, pp. 3–19, and “Kaidai” 解題, pp. 402–407.

word *shikimoku* 式目, which the bakufu had used as a modest term for its 1232 summary of leading cases, but now meant “bakufu code”.⁷ Below I use the term “Code” for the Munakata by-laws – for a code was what they were for the people on Munakata lands – rather than “by-law”, since “by-law” gives the modern reader the impression of local legislation by a municipal council.

Codes like that of the Utsunomiya and the Munakata clans had a great future, for many Sengoku daimyō issued such codes, and unashamedly – as they now held absolute power in their territories – called their codes as they pleased, e.g. *okitegaki* 掟書 “commandments” or *hatto* 法度 “statute”.⁸ In the translation of the Munakata Code, I use the word “statute”, when the legislator talks about his code; for what he wanted was to tighten up his rule through new statutory law partly confirming, partly abrogating an older statutory law, the so-called “Great Placard” of 1259 (see the Preamble, and Art. 9). Even calling the 1313 Code a “Constitution” would not be off the mark, since the legislator (see Art. 6, and the Epilogue) gives certain promises to his men. Since loyalty to his son and heir, and, when he grew up, obedience to him, was intended to be their return favour – and the son and heir actually grew up, and ruled – there is reason to believe that the legislator intended these promises to be binding. Deals between a prince and his barons – they promise obedience to his designated successor, and he promises orderly government – is a pattern well-known from medieval European history, as an institutional bridge between elective monarchy and absolute monarchy. In Japan, Hideyoshi besought his barons to be loyal to his young son; it did not work, since Hideyoshi was already very ill and thus had no lever against his barons.⁹ In the Munakata case, the succession arrangement worked: the ceding lord was still powerful, and Hōjō pressure made compliance with the reforms necessary, so as to prevent independent measures by the bakufu. The latter could always allege defence necessity; for in case of another Mongol attack, Munakata territory was the area nearest to the embarkation ports of the Korean peninsula. Whether the Munakata clan could count on special consideration by the Hōjō rulers of the bakufu is doubtful.

7 See ISHIMODA Shō 石母田正 in *CSSS*, pp. 565–570.

8 See ISHII Ryōsuke 石井良助: *Nihon hōseishi gaisetsu* 日本法制史概説, Tokyo (Sōbunsha) 1976, pp. 375–378.

9 See Mary Elizabeth BERRY: *Hideyoshi*, Cambridge & London (Harvard University Press) 1982, pp. 234–241.

The Munakata belonged to the oldest stratum of the ruling class, while the Hôjô were notorious upstarts. Until well into the 6th century the Munakata had been independent rulers of an extensive territory in northwestern and northern Kyushu, in what is now Fukuoka, Nagasaki, and Ôita-ken, comprising also some of the islands in the open sea between Kyushu and the Korean peninsula. The main assets of the Munakata were the fishermen and sailors who knew these sea-lanes with their shoals and sudden storms, and shrines of three female deities who were supposed to protect ships sailing these sea-lanes, if sacrificed to.¹⁰ The Munakata were the hereditary overlords of these fishermen and sailors, had insider knowledge of trade and politics of the Korean peninsula, and were hereditary wardens, and head priests, of the said shrines. Early emperors, notably Temmu Tennô (ruled 673–86), availed themselves of the services of the Munakata clan, and favoured it, in particular in its capacity of hereditary wardens and priests of the Munakata shrines, with land grants and privileges, most of all the unusual one of being concurrently Shinto priests and lay officials invested with judicial, financial, and administrative powers over the shrines and their sustenance lands.¹¹ Since Shinto and Buddhist cults were not separated, the head priest also held a high Buddhist title.¹² The imperial favours were, by the personalistic and familistic values prevalent in Nara and Heian Japan, reasonable. One of Temmu's consorts, while he was still Prince Ôama 大海人, was a Munakata woman, and their son served Ôama with distinction in the civil war of 673, through which Ôama usurped the throne from his older brother.¹³ Accordingly, a myth was

10 See *Dictionnaire historique du Japon*, s.v. “Munakata-jinja” 宗像神社; OKAZAKI Tadashi: “Japan and the Continent” (trans. by Janet Goodwin), in Delmer M. BROWN (ed.): *The Cambridge History of Japan, Vol. I, Ancient Japan*, Cambridge, New York, Melbourne (Cambridge University Press) 1993, pp. 268–316, in part. pp. 312–316; HIRANO Kunio: “The Yamato State and Korea in the Fourth and Fifth Centuries”, in Tôhō Gakkai (ed.): *Acta Asiatica*, Vol. 30 (1976), pp. 51–82, in part. p. 67; and, for the oldest and most venerated of the Munakata shrines, Dai Sanji Okinoshima Gakujutsu Chôsatai 第三次沖ノ島学術調査隊 (ed.): *Munakata Okinoshima* 宗像沖ノ島 I–III, Tokyo (Yoshikawa Kôbunkan) 1979, I: 452–454, 494–495, 620–625; and III: 3–5, 26–27, 49–53; 92–93, 112–113; 250–251; 330–331, 344–345, 350–351, 358–360, and 368–371.

11 See ISHII Susumu: “Jûyon seiki shotô ni okeru zaichi ryôshu hô no ichi keitai. Shôwa ninen Munakata sha kotogaki jôjô oboegaki” 一四世紀初頭における在地領主法の一携帶. 正和二年宗像社事書条々おぼえがき, in idem: *Nihon chûsei kokka shi no kenkyû* 日本中世国家史の研究, Tokyo (Iwanami Shoten) 1970, p. 467. In what follows, I quote this article as “Ishii / oboegaki” plus page number.

12 *Shitsuin gongyô* 執印勤行, *ibid.* p. 467.

13 W.G. ASTON (trans. & ed.): *Nihongi*, Tokyo (Tuttle reprint) 1982, Part Two, pp. 309–319.

concocted and authorized to the effect that the Munakata goddesses were children of the (old, earthly) God Susanoo and the (newer, heavenly) supreme goddess Amaterasu Ōmikami, whom the Tennō, too, claimed as ancestress.¹⁴

A weakness of the Munakata establishment was the absence of clear rules of succession to the lucrative post of high priest of the Munakata shrines. As in the early Imperial House, brothers (typically grown-up and experienced) of the incumbent tended to demand precedence over the incumbent's descendants (typically young and inexperienced); or younger and elder brothers both claimed to have been appointed by their dying father. In 1132, two claimants to the post of high priest even waged a local war of succession.¹⁵ Ex-Emperor Toba (ruled as Ex-Emperor 1129–56) favoured the winner with a decree which made his holdings personally heritable in the father / son descent line, and with Toba and his descendants as supreme patrons. Under Toba's weaker successors, the patronship was actually administered by members of the Taira clan, which after two successful civil wars lorded it over the Imperial House from 1159 to 1184. When, in 1185, Minamoto no Yoritomo defeated and expropriated the Taira clan, he, of course, abolished all rights over the Munakata lands and temples held by the Taira, but did not punish the Munakata, though they had been friends of the Taira. The wife of the last Taira to administer the Court's patronship over the Munakata holdings had talked her brother-in-law Kiyomori, the Taira leader, into his ultimately fateful decision not to kill, only to banish, young Yoritomo, whose father Kiyomori had defeated in the 1159 civil war. Nor did Yoritomo want to antagonize the Court, which tried to protect the Munakata clan and the shrines of which the clan had been in charge for so long. Under Minamoto rule, the Munakata even obtained the status of shogunal housemen (*gokenin* 御家人), and the hereditary nature of the position of head priest was confirmed. Under Hōjō rule (from 1203) the Munakata remained in favour with the bakufu. It granted the shrine lands immunity from entry of the shogunal police (1204); and a conflict with the patron, then the impetuous Ex-Emperor Go Toba (ruled as Ex-Emperor 1198–1221) and the latter's deputy, a Fujiwara noble, during which the head priest was even incarcerated (1215), ended, after bakufu intercession, with the full rehabilitation of the priest in 1217. A bakufu decision of the same year laid down that the Munakata clan was to retain full

14 See Nelly NAUMANN: *Die einheimische Religion Japans I–II*, Leiden (Brill) 1988–1994 (Handbuch der Orientalistik 5/4/1/Teil 1–2), Vol. I: pp. 82–83.

15 ISHII / oboegaki, pp. 467–468.

police and judicial power over shrine land inhabitants. With the defeat and exile of Go Toba at the hands of the bakufu in 1221, Court patronage and Court interference came, at least temporarily, to an end. The strengthened bakufu, however, installed one of the bakufu's leading politicians, Miura Yasumura 三浦泰村, as financial controller of Munakata lands.¹⁶ When the Hôjô exterminated the Miura clan in 1247, the position of the Munakata clan became complicated: The bakufu, at this time in a cooperative mood towards the Court, allowed Ex-Emperors and their consorts to be patrons of, and thus to derive income, from Munakata lands, but in reality exercised tight control not only over Munakata administration, but even over matters of worship; from 1255 the Munakata shrine priests were officially obliged to pray not only for peace and welfare of the country, but also for the welfare of their overlords in the bakufu.

After the fall of the Miura in 1247, Court influence over the Munakata shrines and lands revived in a roundabout manner. The rather dictatorial Miura Yasumura had alienated shrine lands. These were redistributed together with other Miura possessions. The influential courtier Saionji Saneuji 西園寺実氏 (1194–1269, son of a niece of Yoritomo) represented the bakufu at the Court, and was the father of Ômiya'in 大宮院 (1225–92), principal wife of Go Saga (Emperor 1242–46, Ex-Emperor 1246–72). Saneuji succeeded in having the bakufu agree to an arrangement, which made Ômiya'in patroness of the Munakata establishment, with Saneuji himself as supervisor.¹⁷ Ômiya'in was an astute business woman and came to hold much land. She confirmed – possibly against a fee – the heredity of the post as head priest of the Munakata shrine. She managed to secure that the patronship fell to her descendants, in spite of their rivalries over the imperial succession,¹⁸ and that the supervisorship came to rest not with the rapacious Fujiwara, but with the scholarly, politically less prominent, and less divisive, Tachibana clan of courtiers.

The Mongol attacks in 1274 and 1281 were successfully resisted, but renewed attacks were expected. Bakufu and Court had continuous prayers said to Buddhas and Gods. Ex-Emperor Kameyama (ruled as Ex-Emperor from 1274, lay monk 1289, died 1305) came to favour the Zen sect, and in 1291 made

16 Ibid., p. 472.

17 Ibid., p. 473.

18 See YASUDA Motohisa 安田元久: "Kamakura bakufu", in FUJIKI Kunihiko 藤木邦彦, Inoue Mitsusada 井上光貞 (eds.): *Seijishi* 政治史 I (*Taikei Nihonshi sôsho* 体系日本史叢書, Vol. I), Tokyo (Yamakawa Shuppan Sha) 1976, pp. 303–307.

his own retirement palace a Zen monastery, to which he donated his patronship of the Munakata lands. Probably for strategic reasons, the bakufu, however, gave the monastery other lands in lieu of those of Munakata.¹⁹ From 1302 the bakufu ruled the Munakata lands directly, under the nominal patronship of the Imperial House. Within the bakufu, the overlords of the Munakata lands were now the clan heads (*tokusô* 得宗) of the Hôjô clan. Their rule was tough: in particular, they increased taxation, partly for defence purposes, partly to finance their own men; for the defeated Mongols left no land behind to distribute.

This, then, was the situation in 1313, when the Code was promulgated. The incumbent head priest and lord of the lands sustaining the Munakata shrines, Munakata Ujimori 宗像氏盛, had retired in 1312 in favour of his infant son and the latter's guardians (who were also Ujimori's most trusted vassals), possibly in order to improve relations with the Hôjô *tokusô*. What was transferred to the heir was land and landed income, comprising 496 *chô* 町 (1 *chô* = 2,45 acres = 99.17 ar.) and 3 *tan* 反 (1 *tan* = 1/10 *chô*) of shrine land, over which the Munakata head priest ruled independently, except for tax obligation to Kamakura, plus 42 *chô* and 2 *tan* of land (possibly more²⁰) over which he held partial rights, that is, rights of income as *jitô*, *myôshu*, or imperial official. Thus, he held no unitary sway, but rather a portfolio of lands and incomes, distributed over many villages in northern and northwestern Kyushu. Therefore, he could only legislate in broad outlines, and had to consider the rights of other, more or less independent lords, some of them deputies of Kyoto nobles, some of them bakufu vassals in their own right, some of them relatives of the family of the head priest, eager to share its privileges, and some of them *myôshu*, all striving more or less successfully for reduced tax shares, and direct ties to Kamakura. Only the emergency situation of having lost since 1302 much of the factual freedom, which each class had enjoyed in the preceding centuries when they only had the Court and absentee nobles above them, and of now having to pay increased taxes to Kamakura, created a situation where administrative reorganization measures were palatable. Yet, rebellion would have been a possible outcome; and to prevent this calamity, arms and horses were monopolized, and direct contacts with the bakufu prohibited.²¹ On the other hand, the principle that the lord should govern in

19 ISHII / oboegaki, pp. 475–476.

20 Ibid., pp. 484–486 und *Kokushi daijiten* 国史大辞典, s.v. “Munakata Jinja” 宗像神社, Tables.

and through his Council – consisting of the heads of the most influential families within the Munakata clan, all appointed by the Munakata head priest – was laid down, together with rudimentary rules for procedures and aims of the Council’s work.²² During the Kemmu Restoration (1333–36), the Munakata lands were imperial lands, but Emperor Go Daigo (Emperor 1318–39, the last three years head of the anti-Ashikaga government in Yoshino), in 1334 left full powers of taxation and jurisdiction (*ichien chigyô* 一円知行) to the Munakata head priest Ujitaka 氏高 and his male descendants. While the “Northern” and “Southern” Courts fought each other (1336–92), local warriors *kokujin* 国人 dominated the whole area, and even when Ashikaga rule had become stable (1392–1467), the Munakata clan had to defend itself against competing warlords, notably the Shôni clan. In the Sengoku period of Warring Provinces (1467–1573), the Munakata succeeded in warding off the Shôni and stabilizing the shrine territory (1561), though the size of the latter had by then shrunk to 100 *chô*. When, however, High Priest Ujisada 氏貞 died without a son in 1586, Hideyoshi confiscated the Munakata lands, and enfeoffed Kobayakawa Takakage 小早川隆景 (1533–97), who had been a successful army leader in Hideyoshi’s campaigns, with them. Takakage added 200 *chô* to the shrine lands, but Takakage’s adopted son and successor Hideaki 秀秋 (1582–1602), who – though he was a nephew of Hideyoshi’s wife – switched to Ieyasu’s side in 1600, recalled Takakage’s donation,²³ possibly under pressure from Ieyasu, who wanted to favour the Kuroda clan; its leader Yoshitaka 孝高 (1546–1604) was also a former vassal of Hideyoshi, but had joined Ieyasu’s side earlier. Yoshitaka increased the income of the shrines. His descendants ruled the Munakata lands until 1868, with the Munakata head priests as their deputies. The Meiji government included the three Munakata shrines among the officially recognized and financed shrines (*kanpeisha* 官幣社),²⁴ and furthered the erection of branch shrines. These now number about 9,000 (in many of these other deities, too, are worshiped). Like others, the Munakata shrines had to fend for themselves financially after 1945.²⁵ The post of head priest was still held by members of the Munakata clan.²⁶

21 See translation below, Articles 10, 12, and 13.

22 See *ibid.*, Articles 1, 3 and 6, and the Epilogue.

23 *Kokushi daijiten*, s.v. “Munakata Jinja”.

24 *Ibid.*

25 See Ernst LOKOWANDT: *Zum Verhältnis von Staat und Shintô im heutigen Japan. Eine Materialsammlung*, Wiesbaden (Harrassowitz) 1981, pp. 64–67 and 70–81.

The Code of 1313 seems never to have been repealed. It was, however, superseded by new laws when the Munakata lands became part of first Hideyoshi's and then of Ieyasu's spheres of power. The Code – or rather the tightening-up of administration following in its wake – helped, however, the scattered and vulnerable shrine lands with attached income rights survive as a political entity in the turbulent years between 1333, when the Hôjô regime fell, and 1587, when Hideyoshi vanquished the Shimazu 島津 clan and policed Kyushu efficiently. The Code created a tradition for orderly, centralized government in an area where competing warlords had, since the fall of the Hôjô, ruled as they pleased. From the point of view of the evolution of civil law there is little to be gained from the Code. But from the point of constitutional and administrative law the Code was forward-looking, namely (A): Art. 1, 3, 6, and Epilogue: a sort of “deal” between Lord and Vassals, with “decent government” promised in exchange for succession;²⁷ (B): strict controls of government income and expenditure (Art. 2, 4, 8, and 9); (C): concentration of the means of violence in the government's hands (Art. 12 and 13); (D): making sure that the government always knew what it had promised vassals and others (Art. 4); (E): standards of probity in decision-making (Art. 3 and Epilogue); (F) the beginnings of a ranking order of sources of justice (Epilogue);²⁸ (G): the principle of the exclusiveness of official channels when somebody wants to write to a higher authority (Art. 10). Of these, (A), (B), (C), (D), and (G) seem to be new, (E) was known in bakufu legislation,²⁹ and (F) can be extracted from cases in bakufu courts, but seems to turn up in the Munakata Code for the first time as a generalized statement.³⁰ It is well

26 *Dictionnaire historique du Japon*, s.v. “Munakata jinja”. But the main line died out in 1586 (see *Kokushi Daijiten*, s.v. “Munakata uji”), and in 1871 the Meiji government denied any duty to appoint shrine heirs (LOKOWANDT: *Die rechtliche Entwicklung des Staats-Shintô in der ersten Hälfte der Meiji-Zeit (1868–1890)*, Wiesbaden (Harrassowitz) 1978, p. 135), Kanpeisha priests becoming salaried officials of the state (ibid. p. 194), until the US occupants privatized these shrines in 1945.

27 For premodern European parallels, see Arno BUSCHMANN (ed.): *Kaiser und Reich. Klassische Texte und Dokumente zur Verfassungsgeschichte des Hl. Römischen Reiches Deutscher Nation*, München (dtv) 1984, pp. 68–69, 119–120, 203, and 550–552.

28 See the work quoted in Note 8, pp. 206–213.

29 For the oath of the Kamakura bakufu judges, see CSSS pp. 35–37. There is a somewhat dated translation of it by the present author in *MNXXV* (1980), p. 435.

30 See HAGA Norihiko 羽下徳彦: “Ryôshu shihai to hô” 領主支配と法, in *Iwanami kôza Nihon rekishi* 岩波講座日本歴史, Vol. 6, *Chûsei* 中世 1, Tokyo (Iwanami Shoten) 1975, pp. 169–210.

known from European history that ecclesiastical institutions were pioneers in the development of administrative organization, and it seems that this was also the case in medieval Japan.³¹

2. Translation

Statute [Divided into] Articles 事書条々 (*Kotogaki jôjô*)

[Preamble]

Abiding by what was already ordered in the Great Placard (*Ôfuda* 大札) of the eighth day of the second [lunar] month of the third year of [the] Shôka 正嘉 [era], strict measures should be taken [to ensure that] the cult of the Gods be zealously carried out, the service of the Buddhas diligently performed, the shrines [of the Gods] renovated, the temples [of the Buddhas] repaired, and the tasks of agriculture, land administration, and other [economic] matters [be taken well care of].

Commentary: The word which I have translated as “Statute” is *kotogaki* 事書, since here the legislator speaks of his own Code. A word corresponding to “Preamble” is not present in the original; but Ishii Susumu, who annotated the text in his *Oboegaki* (see Note 11) and in the *CSSS* (see Note 5), pp. 177–84, kept the first article outside his numbering of the articles. This is reasonable, because the first article is by its contents a sort of preamble. — In what follows, commentaries by Ishii Susumu are marked “(IS)”. I only add commentary when the text has a point which is historically remarkable. I have not identified simple translations of old words, lest the commentary grow inordinately. Words in brackets have no literal counterpart in the original. They have been inserted to clarify the meaning – after all, the text was drafted by administrators for others of their ilk – and the insertion seemed justified either from the context or from Prof. Ishii’s annotations. The type of statute is a combination of “orders by the local lord” and “deal with

31 Buddhist institutions were early developers of an efficient bureaucracy, see, e.g., Mikael S. ADOLPHSON: *The Gates of Power. Monks, Courtiers, and Warriors in Premodern Japan*, Honolulu (University of Hawai‘i Press) 2000, pp. 53–63. Since land exploitation tasks and security problems were the same for shrines as for temples, both modernized their administrative framework, when their overlords or patrons demanded more resources.

the vassals”; see Carolin REIMERS: *Gesetzgebung im vormodernen Japan. Rechtsgebote und die Ideen der Konfuzianisten in der Edo-Zeit (1603–1868)*, Munich (iudicium) 2000, p. 47, note 63. — The above remarks also apply to the articles after the “Preamble”. — The last year of Shōka is Shōka 2. But the 8th day of the 2nd lunar month came before the 26th day of the 3rd lunar month when the era was retroactively changed into Shōgen 正元. Adding the information found in Paul Yachita TSUCHIHASHI: *Japanese Chronological Tables*, Tokyo (Sophia University Press) 1952, the era change date I arrive at according to the Kadokawa *Nihonshi jiten* 日本史辞典, 2nd ed., Tokyo 1989, p. 1379, and Herschel WEBB: *Research in Japanese Sources. A Guide*, New York & London (Columbia University Press) 1965, p. 22, is March 3, 1259, as the tentative date for the “Great Placard”, that is, at a time when the Imperial Court had still much to say in the Munakata establishment. Unfortunately (IS), the “Great Placard”, probably written on a large wooden surface and hung up for all to see, has not been preserved. — The injunction to maintain assiduously religious services and buildings echoes the bakufu’s *Go seibai shikimoku* 御成敗式目 of 1232, Art. 1, see CSSS, “Kamakura bakufu hō” p. 1, and the annotated translation by Wilhem RÖHL in *Oriens Extremus* Vol. 5 (1958), fasc. 2, pp. 228–245. Remarkable is the equation of Shinto and Buddhist religious duties; this was common practice, see Nelly Naumann: *Die einheimische Religion Japans*, Vol. 2, pp. 28 and 151. The words translated “the tasks of agriculture, land administration, and other such matters” are *kannō ika shomu zatsumu nado* 勧農以下所務雑務等. *Kannō* meant (IS) distributing fields and agricultural materials (tools, animals, seeds) to the tillers. As for *shomu*, it implied “landed income”, see ISHII Ryōsuke 石井良助: *Chūsei buke fudōsan soshōhō no kenkyū* 中世武家不動産訴訟法の研究, Tokyo (Kōbundō) 1938, p. 6. *Zatsumu* implied “income from chattels, contracts, and debts”, see SATŌ Shin’ichi 佐藤進一: *Kamakura bakufu soshōseido no kenkyū* 鎌倉幕府訴訟制度の研究, Tokyo (Meguro Shoten) 1946, pp. 66 and 121–129. There is a summary of such technical terms in the author’s article “The Legal System of Japan at the End of the Kamakura Period from the Litigants’ Point of View”, in Brian E. MCKNIGHT: *Law and the State in Traditional East Asia. Six Studies on the Sources of East Asian Law*, Honolulu (University of Hawai’i Press) 1987, pp. 73–110. The overall message by the legislator to his men in the “Preamble” is something like this: “Do not forget the old and still valid orders concerning securing agri-

cultural and non-agricultural income!” This mentality came to full development in the Sengoku age; see Reinhard ZÖLLNER: *Die Ludowinger und die Takeda. Feudale Herrschaft in Thüringen und Kai no kuni*, Bonn (Dieter Born) 1995, pp. 162–173.

Art. 1. *All and sundry who reside in the shrine [lands] shall obey the orders of [my son and heir] Matsu Hôshi 松法師*. Whoever disobeys the orders of Matsu Hôshi, or acts contrary to the Council, must not, even if he is a brother, or a relative [of our clan], be selected for a post as shrine priest or *myôshu*, and must be immediately banished from the shrine [lands].

Commentary: The word for “all and sundry” is *kô otsunin* 甲乙人 or “untitled commoners”. Thus, everybody was a direct subject of the Overlord, as in Ritsuryô and later in the Sengoku daimiates. — “Council” is *naidan* 内談. Only Munakata clan members could participate (IS). If other trusted vassals etc. were called in to deliberate, the usual term was *hyôjô* 評定. *Naidan* members were also the guardians of the heir. After he grew up he took the name of Ujinaga 氏長, which he later changed to Ujinori 氏範 (IS). — The normal age for being “capped” and obtaining the rights and duties of a grown-up was the completed 15th year (actually the 14th, since the year of gestation was counted, thus one was considered to be one year old at birth). — A *myôshu* after 1300 was no longer a tenant, but an owner-occupier collecting taxes and exacting labour duties from the tillers of his land at least as much as his superior, the *kaihotsu ryôshu* 開発領主 was obligated to his superiors in Kyoto and Kamakura; towards the former the Kyushu *myôshu* had more leeway – and thus more chances to make himself wealthy and independent – than *myôshu* elsewhere in Japan. Yet, as one sees from this article, it was the local lord, here the Munakata, who appointed him, and could also dismiss him. For the development of *myôshu*, see BROCHLOS: *Grundherrschaft*, pp. 90, 153–155, and 258–259. For their activities, see TARANCZEWSKI *Lokale Grundherrschaft*, pp. 91 in general and 104 in Kyushu. — From this rather Draconian provision one sees that the Munakata Code was not a *kakun* 家訓 (binds clan members only and works through moral suasion), but an early *kahô* 家法 (binds everybody on the legislator’s territory and works through punishment); see KATSUMATA Shizuo: *CSSS* p. 497. Typical of a *kahô* is also that it is not casuistic, but lays down general and lasting rules, in the direction of what we today would call a constitution

for the territory. — “Modern” statehood, which in Europe reached out from the capitals (e.g. London and Paris), from the 15th century onwards, grew in Japan from the provinces, and was not capped by a centralized, absolute government until after 1868. Premodern Germany was rather like Japan.

Art. 2. *On arrears of land tax (nengu 年貢) and other taxes (saibutsu 済物).*

As previously ordered, collection pressure (*kashaku* 呵嘯) must be increased, and the taxes paid [into our treasury]. Those [collectors] who do not obey, will have [their] land (*shitaji* 下地) confiscated; it shall be transferred to the peasants. Minor [negligence], too, will be proportionally punished.

Commentary: *Shitaji* is land in itself, the physical soil (while *shiki* 職 is the bundle of rights and duties going with administering it, and *chigyô* 知行 the exercise of rights over land, see TARANCZEWSKI: *Lokale Grundherrschaft*, pp. 73 and 92, Note 103). The word translated “peasants” is *gesakunin* 下作人. They may have been the actual tillers (IS). See also BROCHLOS: *Grundherrschaft*, p. 259. The background was, of course, the increased resource demands from Kamakura, since the Munakata lands were now (since 1302) ruled directly by the bakufu, practically: the clan head of the Hôjô clan. — The typical tax collector was the *myôshu*. He was appointed by the Munakata, and he collected for the bakufu and for possible Kyoto patrons, see TARANCZEWSKI: *Lokale Grundherrschaft*, p. 91 and Note 92. If a negligent *myôshu* was deprived of land, he would not only lose direct income from it, but also customary rights to levy and keep taxes from the inhabitants of that land. These taxes would then land in the coffers of the Munakata lord. What mattered to the Munakata was revenue, in conflict cases possibly even more than the upholding of traditional status pyramids. In this respect, too, their rule prefigured that of the later Sengoku daimyô. The last sentence of the article looks like an afterthought. For a destitute ex-*myôshu* might resort to banditry, see Lorraine F. HARRINGTON: “Social Control and the Significance of *Akutô*”, in Jeffrey P. MASS (ed.): *Court and Bakufu in Japan. Essays in Kamakura History*, New Haven & London (Yale University Press) 1982, pp. 221–250.

Art. 3. *On the Council*

The Council members must make just decisions, and must swear a written oath [to that effect]. If the Council members all agree, that is the decision. If they do not, they must call in experts on [legal] precedents and discuss [the matter] with them. If members give corrupt advice by alleging made-up [legal] precedents, or [hinder decision-making] through not showing up, they shall be expelled from the Council, and punished. If, on the assigned meeting day [of the Council], there is no matter requiring discussion, the members shall, nevertheless, repair to the Finance Office and discuss matters in general. When [my heir] Matsu Hôshi grows up, he shall be induced to make decisions that conform with reason.

Commentary. “Council” is *naidan*. “Just” is *kenpô ni* 憲法に (IS). “[Legal] precedents” is *kojitsu* 故実. The *kojitsu* experts were not *naidan* members (IS). *Kojitsu* was not just a source of law and (proper) politics; it was part of legitimacy for rule; see G. Cameron HURST: “The Warrior as Ideal for a New Age”, in MASS (ed.): *The Origins of Japan’s Medieval World*, pp. 209–233, in part. pp. 226–231; and the present author: “Politische Ideen der Krieger im 14. Jahrhundert”, in *Hôrin*, Vol. 5 (1998), pp. 197–216, in part. pp. 205–208. Whether the Munakata *naidan* resorted to voting by majority if they, having learnt the *kojitsu*, could still not agree – majority voting was commoner also in Japanese non-Buddhist councils than hitherto believed, see M. RÜTTERMANN: “Das Prinzip der Majorität (*tabun*) im japanischen Mittelalter”, in *Saeculum* Vol. 48, Part I (1997), pp. 21–70, in part. pp. 36–37 – is not stated. But I think they did. If the aim is a decision, the member who does not show up, because he disagrees, should, in case decisions can only be made with unanimity, be praised rather than punished; and when all members know the precedents, there is no “sanior pars”, thus one can vote. — The word translated “reason” is *dôri* 道理, which in the Kamakura sphere of political discourse did not mean “the principles by which the world runs” but “the basic value judgments of the ruling class”; see the commentary to the Preamble, and pp. 97–98 in McKNIGHT (ed.): *Law and the State*, with further references. — The word translated “Finance Office” is *Kômonjo* 公文所. The middle character was missing in the original manuscript; Ishii Susumu, on the basis of other documents, amended it. On the basis of Art. 4 and Art. 7 he also found out the functions of the *Kômonjo*: the distribution of tax

burden and fiscal policies in general; thus the most important organ of the Munakata government.

Art. 4. *On the tax officials in the villages, the rice [tax] for materials for official repair [works], and [on] accounting for the income of [the properties in] Haruke and Taku.*

When the Finance Office sends [one who serves us] a document giving him an asset or an order, [the Finance Office] must demand his receipt, compare the [copy of the] document with the receipt, and [demand] accounts [from the receiver]. No arbitrary allotment of assets must take place. If an office-holder fails to produce [receipts or accounts], a deadline is set within which he must pay back what he got. If he fails to meet the deadline, he will be dismissed from his post, and a law-abiding person appointed [instead].

Commentary: Haruke 晴気 and Taku 田久 were localities in present Nagasaki-ken, rather remote from the Munakata central lands in present Fukuoka-ken. In Haruke the Munakata held a *jîtô shiki* 地頭職 (i.e., on the income side, income from jurisdiction and from land rent, see TARANCZEWSKI *Lokale Grundherrschaft*, pp. 76–78), and in Taku unspecified income from land (*tokubun* 得分). Tables in *Kokushi daijiten*, s.v. “Munakata Jinja”, show, however, that there were many other localities where similar income collection difficulties prevailed; and while Taku was a recent acquisition (1313), Haruke had entered the Munakata portfolio already in 1255. So I think the reason why these two localities were singled out would have been trouble with negligent and / or dishonest *myôshu*. It makes no difference if we think that the “Taku” in question was part of the Akama 赤馬 *shôen* in present Fukuoka-ken (thus IS). — The addressees who have to acknowledge receipt are called *katagata* 方々. The term turns up again in other articles in which the legislator expresses certain doubts about full loyalty to him (Articles 8, 9, and 10). IS thinks they were relatives of the head priest’s family, and thus (independent) members of the ruling group. There had been serious wrangling inside the clan in 1132 (see Note 15). — As for the Finance Office’s actual way of making sure that the recipient of its grant or order did not use the document against the Office, maintaining, for example, that he had received no order, or a smaller amount of grain or land than the document stated, the sure way would have been to store in the Office the recipient’s receipt with

a copy of the grant or order. But the text does not mention any copy. So possibly the receipt was written on the document itself (perhaps while the Munakata messenger watched), thus preventing fraud; see TARANCZEWSKI: *Lokale Grundherrschaft*, p. 304, Note 1. Both are possible (*Kumonjo no kakikudashi ni tsukite gegyô seshime, katagata no uketori wo torite, kakikudashi to uketori to wo tsugi* 公文所の書下に就きて下行せしめ、方々の請取を取りて、書下と請取とを続き [...]).

Art. 5. *That the tax officials in the villages, the officers of the finance office, the myôshu, and other office holders, must not arbitrarily put the farmers to work [for them].*

[This practice] must be stopped; [thus] this special commandment. Those who disobey it will be immediately dismissed from their posts, and obedient persons appointed [instead].

Commentary. The “Tax officials in the villages” are *shokyô benzaishi* 諸郷弁済使 (IS). *Kumon* 公文 were normally *shôen* scribes (BROCHLOS: *Grundherrschaft*, p. 254), but since *Kumonjo* was the Finance Office in the Munakata domain, I have translated *kumon* as “officers of the Finance Office”. “Other office holders” are *satanin* 沙汰人, BROCHLOS: *ibid.* pp. 269–270, and TARANCZEWSKI: *Lokale Grundherrschaft*, Ch. I, Note 81, and p. 80. They were the lowest level of officials, just above the farmers, but had, at least in Kyushu, less status than the *myôshu*. “Farmers” is the word I chose for *hyakushô*, that is, free resident cultivators who typically also paid the *kuji* 公事 tax; see TARANCZEWSKI: *ibid.* pp. 64–67, and KEIRSTEAD: *The Geography of Power in Medieval Japan*, Ch. 2. Protecting their productive and reproductive power was no mere Confucian commonplace, but part and parcel of bakufu land policies, see survey in TARANCZEWSKI: *Lokale Grundherrschaft*, pp. 89–90. Since the Munakata head priest held *gokenin* status, he could, however, requisition *hyakushô* labour rather freely, *Lokale Grundherrschaft*, p. 273, Note 21. I would think, therefore, that the aim of the article was not to protect *hyakushô* against excessive levying of *corvée*, but to monopolize, within the legislation of the bakufu, the right of levying it. Only thus could the Munakata head priest protect the crucial tax base; lack of tillers rather than lack of land was the typical Kyushu predicament; farmers fled into the mountains or took up fishing and / or piracy if too hard pressed by their civil or military

lords; the geographical conditions made it easier for them to do so than, for example, in the Kinai.

Art. 6. *On the increase of the land tax.*

That is what the great complaint of our clan [to the bakufu] is [about]. We have sent a representative to the Kantô to plead. Yet, in recent years, we have indeed often given [our men] supplementary fields, or allowed them to keep part of the land tax they levied. We must take it all back [so we] can pay the full tax to the bakufu. If our complaint succeeds, we shall reimburse [those affected]. [And] we shall plan, with the Council, [measures] for those of our men who have [otherwise] no livelihood.

Commentary: Taxes had mostly become privatized, and now functioned as land rents. The Hôjô levied land tax (*nengu*) and *kuji* taxes from the Munakata not only for the bakufu, but also as private lords (*ryôshu* 領主). As for the tax terms, see IS, CSSS, p.180, top note to Art. 6. BROCHLOS: *Grundherrschaft*, explains as follows: *Nengu* normally amounted to about one third of the harvest. *Nengu* of paddy fields was normally contributed in rice, and of other fields in fabrics, other products, or even in money (p. 260). *Kuji* were taxes other than *nengu*. *Kuji* was paid in rice, other products, labour, or money (p. 254). The *kuji* tax base was normally persons rather than land, see Jeffrey P. MASS: *The Kamakura bakufu. A Study in Documents*, Stanford (Stanford University Press) 1976, p. 202, and for cases pp. 62, 80, 99, 101, and 179–180; see also TARANCZEWSKI: *Lokale Grundherrschaft*, p. 237, Note 14, p. 240, Note 17, p. 244, Note 16, and p. 312, Note 14. Tillers paid from sixty up to ninety percent of their harvest as total dues. Owners (*ryôshu*) kept about thirty percent of the harvest, see Hans-Adalbert DETTMER, s.v. “Steuern” in Horst HAMMITZSCH (ed.): *Japan-Handbuch*, Wiesbaden (Steiner) 1981, p. 493. The rest of the dues went to patrons, bakufu, the representatives of these on the land, and, diminishingly, to the Court. Kyushu tillers survived because they paid no taxes on dry fields, which were considered as part of residential land, see TARANCZEWSKI: op. cit., pp. 133–134. — *Kôden* 公田, the word I have translated, from the view of those who served the Munakata, as “supplementary fields”, were no longer “public”, but fields from which taxes were due, see TARANCZEWSKI op. cit., p. 228, Note 15 and p. 287, Note 11; and BROCHLOS: op. cit., pp. 250–51. The Munakata lords had allowed

their men to keep taxes which the Munakata, or the bakufu, could have claimed for themselves; such largesse was now *retroactively* rescinded. This emergency measure required (a) promises of restitution, if the Hôjô reduced their new claims (there are no traces that they did so); (b) relief measures for those who went broke; and (c) precautions, such as monopolizing arms and swift horses, against rebellion, see below, Articles 12 and 13.

Art. 7. *On the labour and other duties to the Kantô Emissaries.*

Abiding by the allocations [already] undertaken by the Finance Office, measures [to comply] must be undertaken without neglect. Those who create difficulties will be punished with particular severity.

Commentary: The term translated as “the Kantô emissaries” is *Kantô (no) on tsukai* 関東御使. In 1302 the Munakata lands had lost their immunities (granted 1217) from entry by bakufu tax and police authorities. The emissaries actually represented the Hôjô clan. Munakata authorities had to serve them with labour and other contributions (IS). Apparently, some Munakata officials had been reluctant to do so. The contrast to the situation a century before, when the bakufu, though already in Hôjô hands, protected the Munakata against intruding warriors, is striking; see the case from 1206 in Jeffrey P. Mass: *The Development of Kamakura Rule, 1180–1250. A History with Documents*, Stanford (Stanford University Press) 1979, pp. 214–215.

Art. 8. *On [such of] our men who are [sent to] represent us, or on [other] official errands, or on guard duty.*

Those who are sent on a tour of inspection, or [to ascertain] the boundaries of properties [etc.], should carry out their tasks with the utmost diligence. If anyone makes excuses, except when he has [a colliding] duty to perform for the bakufu, and refuses to go, it is the height of disloyalty, and will be punished severely. [On the other hand], those whose service surpasses the benefits which our clan gave them, and thus excel their fellows, shall be rewarded for their great loyalty, even when their families [are due to] serve us [anyhow].

Next, concerning guard service. The certificate of performed service which the [recipient] official issues and [the certificate] issued by the guard officer shall be investigated and compared. [If it be found] that a guardsman has

been absent [from duty] five times [or more], he will be punished. And if somebody who does not [owe] guard duty [yet performs it], it is – as formerly ordered – [considered] a merit.

Commentary. The addressees are, as in Art. 4, the not quite reliable *katagata*. — The guard duties were, above all, to man the fortresses and walls built by the Hôjô against renewed Mongol attacks, and to help the bakufu policing Kamakura and Kyoto. These duties were burdensome, and undermined the power of clan heads over branch families and that of principal heirs (*sôryô* 惣領) over younger sons, see Jeffrey P. MASS: *Lordship and Inheritance in Early Medieval Japan. A Study of the Kamakura Sôryô System*, Stanford (Stanford University Press) 1989, pp. 97–101. The Munakata had themselves to blame for bakufu interference, because of their internal inheritance squabbles, see *ibid.* pp. 140–141 and 234–236. It was difficult for the Munakata and other Kyushu lords to keep their resources hidden from the bakufu, since the latter had, in 1284, established an office of investigation (see MASS: *op. cit.* p. 98) in Dazaifu 太宰府; its competences were subsequently expanded into a fully developed court. In the unpleasant crossfire between Kamakura demanding manpower and their own vassals unwilling to furnish this manpower, the Munakata used not only “sticks”, but also “carrots”, as one sees from this article. Such “two-sided” (IS) relations between lords and certain categories of vassals grew in the 14th century, see Thomas CONLAN: “Largesse and the Limits of Loyalty in the Fourteenth Century”, in Jeffrey P. MASS: *The Origins of Japan’s Medieval World*, pp. 39–64, in part. pp. 53–54; and TERADA Tatsuo 寺田龍男: “Der Herrenwechsel der japanischen *bushi* im 13. und 14. Jahrhundert”, in *Hokkaidô Daigaku Daigakuin Kokusai Kôhô Media Kenkyûka Gengo Bunkabu kiyô* 北海道大学大学院国際広報メディア研究科・言語文化部紀要 No. 39 (2001), pp. 199–222. — “As formerly ordered” probably refers to the “Great Placard” of 1259 (IS); which would fortify the idea that *do ut des* relationships between lords and certain categories of vassals (*tozama* 外様 in distinction to *miuchi* 御内) began to develop already in the 13th century.

Art. 9. [Only] the paddy office allocates [the right to requisition the use of] coolies and relay horses of the villages.

As was already ordered in the Great Placard [of Shōka 3-2-8], the said office [administers these matters] for our clan. But we have heard that in recent years [clan] relatives and others have privately ordered [such] services. This is most unreasonable. Now, a double-entry ledger shall be established in the Finance Office, and every year both records of official travel shall be impartially audited.

Commentary: The people concerned are, again, the not-quite-reliable *katagata*. — The “Paddy Office” is *Tadokoro* 田所. Its areas of competence were all matters concerned with rice-producing land; it was, with the Finance Office, the most important Munakata government office (IS). For the history of the term, see TARANCZEWSKI: *Lokale Grundherrschaft*, pp. 71–72 and 82. The meaning in the Munakata realm corresponded more to that in Ritsuryō times than to that common in medieval *shōen*, namely, a person of warrior status serving a *shōen* lord with such tasks as measuring, mapping, registering and determining the tax capacity of fields. — The word I have translated as “double-entry ledger” is *kata nikki* 片日記. Such a ledger is what the control function demanded. The difficulty is that double-entry bookkeeping is not documented until the Tokugawa era. A filing-card system would also have served the purpose well, and such were known since the Nara era, see Franco MAZZEI: “I moduli sociali di base nel Giappone antico. Struttura e funzioni delle famiglie (*ko* 戸) di registri anagrafici conservati nello *Shōsōin*”, Supplemento No. 13, Fasc. 4 of the *Annali del’Istituto Orientale di Napoli*, Vol. 37 (1977). Perhaps each office kept a ledger (IS). But the article says that the *nikki* was to be located in the Finance Office. — Unauthorized private use by powerful people of official transport and information relay systems is known from many premodern civilizations. Probably only the tally system – no horse, no coolie, without showing an official tally stating exactly the aim and extent of the tally bearer’s transport needs – really worked. But the hassle and delay involved in supplying every pony express or runner with a tally was immense; the *ex-post* control here laid down would have worked preventively, since misusers would be found out, and punished. The measure shows a certain administrative sophistication, but is not in itself a proof of centralizing propensities of the Munakata lords –

parsimony would suffice as motivation. Real travel and information control, like in the the Sengoku daimiates, only comes in the next article.

Art. 10. *On [influential people living on our] coasts and islands.*

Bypassing the office-holders of our clansmen they dispatch messengers directly [to the bakufu], [and thus] oblige the bakufu to give [these messengers] fish and vegetables: such behaviour is very disloyal [towards our clan]; it must cease. If there are persons who disobey, the official in charge must report [them] to [my heir] Matsu Hôshi; that is obvious indeed. Families who are close to such [offending] persons are not to be trusted.

Commentary: The word translated “office-holders” is *satanin*; see the commentary to the fifth article. Otherwise, the article speaks for itself.

Art. 11. *On access to mountain [lands].*

Access to the mountains Yamaguchi, Tarumi, and Yamada is free. It would be a hardship to the peasants if one prohibited access [to these mountains]. As to Byôbu-take, Gokurakuji-san, Mochiyama, Takayama, Teikenji-san, and the like, they are [sources of] irrigation water, therefore [our] office-holders should be told to forbid strictly [any] access [to them].

Commentary: All these mountains are located in present Fukuoka-ken. IS has identified their modern names, see *CSSS* top note p. 182, and the table in *Kokushi daijiten*, s.v. *Munakata Jinja*. — The peasantry normally collected grass, fuel, and herbs in the mountains according to ancient, permissive customs, see ISHII Ryôsuke: *Nihon hôseishi gaisetsu* 日本法制史概説, pp. 312–313. The problem is, that the more vegetation is taken, the less rain will fall, and the more river sources will dry up, see Conrad TOTMAN: *The Green Archipelago. Forestry in Premodern Japan*, Berkeley and London (University of California Press) 1989, p. 38. Protecting the vegetation of mountains which are sources of irrigation water was for its time a new and useful ecological idea. It seems to have been grounded on observation, not on religion. — The “office-holders” are, again, the *satanin*. — Outside the core areas of Munakata power absentee Kyoto patrons had more to say; their interest was logging, and the peasantry took grass, fuel, and herbs as they had always done; thus, here there was probably no

protection of the environment, except where clergy, Shintoist or Buddhist, enforced such protection for religious reasons, trees and plants having, for the Buddhists, Buddha nature, and for the Shintoists, the quality of deities and / or abodes of such. See Nelly NAUMANN: *Die einheimische Religion Japans*, Vol. 2, p. 67; and SONODA Minoru, “Shinto and the Natural Environment”, in John BREEN and Mark TEEUWEN (eds.): *Shintô in History. Ways of the Kami*, Richmond, Surrey (Curzon Press) 2000, pp. 32–46.

Art. 12. *On swift horses.*

It must be ordered that the old law be followed without negligence. Transgressors will be strictly punished, as there stated.

Commentary: The article probably refers to the “Great Placard”, but does not repeat the contents (IS). From the context it is clear that the idea was to reserve swift horses, important tools for war, for the Munakata lords; which means, there were rules about who could breed such steeds, who paid for it, how were the mounts fed and trained, and, most important, how were those outside the ruling clan prevented from breeding their own war horses. There is reason to believe that the best war horses now had to be passed on to the bakufu, and that therefore serious punishment would be meted out to those who did not comply with the rules. Since horses were small, and shoeing yet unknown, a horse big and strong enough to carry a warrior into battle was a treasure.

Art. 13. *On armour, other military equipment, and horses.*

During the national emergency [military equipment] was distributed. But now, under normal conditions, it must be stored in [our] armoury as in former times. No permits at all to lend [such equipment] privately, even to relatives or brothers [of our clan], must be given. The same [principle applies to] horses.

Commentary: “The national emergency”, *Tenka no on daiji* 天下の御大事 was, of course, the Mongol attack (1274 and 1281). Arms and armour which the commoners could not normally afford had possibly been distributed to them, in the hope that they would use them against the invaders rather than against the classes which oppressed them.

Now this war gear was to be collected and stored in the Munakata lord's armoury again. A total disarmament of the farming population would probably have exceeded the military and administrative capacities of the Munakata, and would also have entailed difficult decisions on who could keep their spears, swords, bows, etc., in particular the *myôshu*, who needed arms to collect taxes from recalcitrant peasants. A physical separation between warriors (into barracks, with arms) and tillers (stayed in the villages, without arms) was not even brought about by Hideyoshi in Kyushu; the continuation of "village samurai" was typical of this area, also in Tokugawa times. What the Munakata hoped to achieve was a reduction of the risk of rebellion by *myôshu* leading their peasants into battle against the new and harsher tax régime enforced by the Hôjô. — Possibly warhorses, too, had been lent to such commoners as were normally not allowed to move about on horseback, in order that they could fight the Mongols more efficiently. The sentence about horses is not redundant, since obviously the 1259 rules about the war horse monopoly of the Munakata lord had not foreseen the 1274 and 1281 emergency measures. The plea that normal conditions had now returned was untrue. Warlike preparations were necessary as long as the Mongols ruled China and Korea, and the Japanese military leadership knew that. All things considered, I think it is not justified to regard the article as a foreshadowing of the violence monopoly of the early modern state. The latter introduced it for different reasons, namely, to prevent the masses from rising while the prince and his army were engaged in war against the neighbouring prince and his state (France, Prussia, Russia, Manchu China), or to prevent the resurgence of civil war (Tokugawa Japan).

[Epilogue]

Such are the articles [here laid down]. But if some matter is not mentioned in this statute, one should indeed adjudge [the matter] according to other [legal] compilations. This means, to follow the [Jôei] Code [of the bakufu]; or look up precedents; [if no solution], to follow reason; [if still no solution], follow what the present circumstances require; [thus prepared], [legal matters] shall be brought before the Council, and the Council shall make just [i.e. unbiased] decisions. It shall investigate, how shallow or deep is the loyalty or disloyalty [towards our clan of the parties involved, and thus in the end] ascertain, are their intentions good or bad? [For] the core of good government is to distinguish

right and wrong, and the essence of ruling is to apply rewards and punishments.
— Thus ordered.

Shôwa 2nd year, 1st [lunar] month, 9th day 正和貳年正月九日

Monogram (*kaô* 花押) of Munakata Ujimori 宗像氏盛

Commentary: A word corresponding to “Epilogue” is not present in the original. But the contents show that this *is* the epilogue or conclusion; and as to form, in contradistinction to the articles before, the superscript does not begin with *ichi* 一, and the text not with *migi* 右, *ichi* being the signal that here comes a new topic in a rule series, and *migi* that another rule went before. Both devices helped prevent fraudulent additions to texts. “Other legal compilations” probably meant the oft-mentioned “Great Placard” (IS). The word translated “[Jôei] Code” is *shikimoku*, that is, the bakufu’s *Go seibai shikimoku*, also called, according to the era when it was compiled, *Jôei shikimoku* 貞永式目 (IS). The “supplementary statutes”, those we now call the *Tsuika hô* 追加法, are not mentioned. They form a modern compilation of what was to contemporaries just new bakufu leading cases, see KASAMATSU Hiroshi 笠松宏至 in the CSSS, pp. 479–490. Therefore it is not illogical, when the text, after having told the officials to follow the Jôei code, says, “or look up precedents”; for they would then land in the leading cases which amended the Jôei code, and which the bakufu sent to its judges, occasionally even compiled, and which now, beautifully numbered, make up our *tsuika hô*. What happened if the “Great Placard” collided with a *tsuika hô* or even with a rule of the *Jôei shikimoku* is not stated, but since the Munakata territories were now a bakufu area, there is little doubt that the bakufu rule won. Thus, we arrive at the following order of sources of law to be followed when the Munakata officials prepared the brief of a case, and the Council adjudged it: (1) bakufu statutes (2) bakufu precedents which had not yet been compiled into statutes (3) Munakata statutes and precedents (4) “reason” (*ri* 理), that is, practically, what the Council knew about customs and values, and accepted as relevant and enforceable (5) what the concrete circumstances required *jigi no osu tokoro* 時宜の推す所. On these bases the Council was to make unbiased (*kenpô ni*) decisions. All this echoes bakufu doctrine, see ISHII Ryôsuke: *Nihon hôseishi gaisetsu*, pp. 206–213, and the injunctions to decision-makers ascribed to Hôjô

Tokimune, but actually penned by an unknown Hôjô era lawyer ab. 1320; see transcription and translation in the *MN* Vol. 35 (1980), pp. 433–34, by the present author, amended by RÜTTERMANN: “Das Prinzip der Majorität”, in *Saeculum* Vol. 48 (1997), p. 37, Note 38, and original in the *Chûsei hôsei shiryô shû* (*CHSS*), Vol. II, p. 374. The directive force of precedent, whether part of the ideology of the bakufu (*buke no naraï*) or sanctioned by history (*kojitsu*) or accepted as *ratio decidendi* in a former case (*bôrei* 傍例) could be overridden if the institutions of the surrounding society had changed (*jigi no osu tokoro*). This, too, conforms to Kamakura doctrine. But what the *jitô* normally decided on his own, though under some risk of appeal to bakufu courts (see KASAMATSU Hiroshi: *Nihon chûsei hôshi ron* 日本中世法史論, Tokyo (Tôkyô Daigaku Shuppankai) 1979, pp. 138–145, and pp. 85–86 and 91 in Brian McKNIGHT (ed.): *Law and the State*, the Munakata Code leaves to the lord’s “council”, where the lord presided, but had to take advice, and was a learner only, until he had become an adult (Art. 3 *in fine*). That the legislator had here come under some pressure from his barons is probable, though their influence is less clearly stated than in the Rokkaku 六角 Code of 1567, which is otherwise the classical example of a deal between lord and vassals, with the latter as the stronger party. See Markus RÜTTERMANN: *Das Dorf Suganoura und seine historischen Quellen. Untersuchungen zur Genese einer zentral-japanischen Dorfgemeinde im späten Mittelalter* (Mitteilungen der Gesellschaft für Natur- und Völkerkunde Ostasiens, Vol. 126), Hamburg (OAG) 1996, pp. 402–404. In this respect, too, the Munakata Code points forward to the Sengoku age.

3. Conclusion

The above document was signed on the ninth day of the first lunar month of the second year of Shôwa, that is, February the fifth, 1313. This is in an era which is often considered as the one during which Hôjô rule showed the first signs of decay. No traces of such decay appear, however – the Hôjô seem to have been in full control, though the Munakata resented their tax claims and their meddling. Since the Munakata territory had strategical importance, and the Munakata lords had *gokenin* status under bakufu law, there is reason to believe that bakufu approval of the retirement, the heir, and of the guardianship while the heir grew up, had been secured in advance from Kamakura, or at

least from the bakufu's Dazaifu office. Such approval, however, is not mentioned, possibly because it would have been detrimental to the clan's priestly prestige among the believers in the Munakata deities.

The Code shows clear trends towards centralization of power at the top, of administrative rationalization, and of gradual acceptance of hereditary rule. Where necessary, the supremacy of bakufu laws and institutions is acknowledged, but without ideological commitment, simply as political facts. Forward-looking elements are (1) a sort of power-sharing between lord and leading vassals (2) rule by the "lord-in-council" (3) efforts, albeit limited, to keep order by means of arms control (4) a fairly clear formulation of the sources of law and their ranking order (5) a clear formulation of the principle that all inhabitants of Munakata lands, in particular the commoners, are subjects of the lord-in-council, irrespective of who owns the land they till, and derives income from that land, and (6) a certain trend to suspect illoyalty among influential individuals outside the immediate control of the lord-in council, perhaps one root of what was to become the nationwide *tozama* syndrom of institutionalized suspiciousness. In short, in this Code we perceive the transition from the "medieval" power-sharing between various groupings of power-holders (*kenmon* 権門) to the Sengoku daimiates, whose administrative controls, in particular the tax system, are much more rational and strict, and in which all political power derives from the center.

4. Names and Terminologies

In the commentaries to the articles of the Code I have tried to supply, on the basis of the annotations provided by Japanese scholars, such information as makes the rather terse articles more intelligible. There remain, however, doubtful points; and other students of the medieval local laws of Japan will find that institutional terminologies vary not only with time but also with locations. I have listed such matters alphabetically below, where they concern the understanding of the Munakata Code.

One may ask, why bother with these terminologies? Local laws may provide us with better information on actual conditions than laws issued by the bakufu or the Court, because the centrally issued laws could only point out *in abstracto* the abuses they were meant to remedy, whereas the local laws have to mention the abuses *in concreto*, which is exactly what the Munakata Code does; but since the local legislators and those they instructed knew the social environment

from their own experience, explanations of terms were unnecessary, and now have to be laboriously elicited from other primary or secondary Japanese source materials.³² To bring together what is known in the West about the meaning of medieval legal terms and note tentatively where there is still debate among Japanese historians, may save time for those who have access to the resources for taking up work on all those medieval legal texts which have as yet only been studied in Japan.³³

Bôrei, which the Epilogue tells the Council to look up when statutory law is silent, and which I have translated “precedents”, may (TARANCZEWSKI: *Lokale Grundherrschaft*, p. 241, comp. pp. 226 and 227) include customs which are followed but not yet litigated on. I stuck to “Precedents”, since there is conflicting evidence concerning the precise meaning of *senrei* 先例 (“judge-made law”) versus *bôrei* (“non-written law”), see the analysis in KASAMATSU:

32 Hans-Adalbert Dettmer wrote the basic work on the Ritsuryô tax system, *Die Steuergesetze der Nara-Zeit*, Wiesbaden (Harrassowitz) 1959 (Studien zur Japanologie, Vol. 1), and on the officials and their salaries, *Die Urkunden Japans vom 8. bis ins 10. Jahrhundert. Die Ränge. Zum Dienstverhältnis der Urkundsbeamten*, Wiesbaden (Harrassowitz) 1972 (Veröffentlichungen des Ostasiatischen Seminars der Johann-Wolfgang-Goethe-Universität Frankfurt / Main, Reihe B: Ostasienkunde, Vol. 3). It is well known that many “feudal” Japanese terms & titles were the same as in the Ritsuryô, but with changed meanings. The above works remain the points of departure for research into institutional terms and their meanings until Meiji. In the 14th century, Go Daigo’s statutes aiming at a Neo-Confucian ideal state of things were short-lived, but show in a nutshell the political weaknesses of the preceding period (the period where the Munakata Code came into existence). Carolin Reimers translated and annotated these statutes in “Kenmuki. Aufzeichnungen aus der Ära Kemmu”, in NOAG, Vol. 149/50, pp. 85–104. The Munakata would have profited from the continuance of Go Daigo rule, and it shows some political acumen that Ujimori’s successor in spite of that marched with the Ashikaga. For the Sengoku era see the bibliography of Wilhelm Röhl’s annotated translations of Sengoku *daimyô kahô* 家法 statutes in C. STEENSTRUP: *A History of Law in Japan until 1868, Second Impression with Corrections*, Leiden (Brill) 1995 (Handbuch der Orientalistik 5/6/2/1), p. 172. The late Jeffrey P. Mass and his students all contributed to the last volume which Mass edited, *The Origins of Japan’s Medieval World*, (see above, Note 4). There is hope that one of them will publish a dictionary of medieval administrative and legal terms which Mass is said to have planned before his untimely death. In German, a comprehensive glossary of such terms already exists, in BROCHLOS: *Grundherrschaft*, pp. 220–294.

33 See list of extant Sengoku *kahô* by Katsumata Shizuo in the CHSS, pp. 498–499. In the development line of territorial legislation from binding the army only towards binding everybody on the territory, the Munakata Code can be said to belong to the latter type. As for the typology of later such statutes, see KATSUMATA Shizuo with Martin COLLICUT: “The Development of Sengoku Law”, in John Whitney HALL et alii (eds.): *Japan Before Tokugawa. Political Consolidation and Economic Growth 1500 to 1650*, Princeton (Princeton University Press) 1981, pp. 101–124, in part. pp. 102–105 and 114–115.

Nihon chûsei hôshi ron, pp. 14–18, and since a bureaucrat would tend to seek a precedent before embarking on the laborious fact-finding task of asking, for instance, local elders, “What is the custom ?”

Gechi is another possible reading of 下地, which I have read *shitaji* (see Art. 2) and interpreted as “land in itself”, “soil”. Among the meanings of *gechi* is “humble people”. I stuck to “land in itself”, since putting the remiss *myôshu*’s bondsmen to work for *gesakunin* would be an inefficient punishment: the *myôshu* could increase the payments of the *gesakunin*, particularly in Kyushu where many *myôshu* were entrenched local notables, see NAGAHARA Keiji: “The Medieval Peasant”, in Kôzô YAMAMURA (ed.): *The Cambridge History of Japan, Vol. 3, Medieval Japan*, Cambridge, New York, Melbourne (Cambridge University Press) 1990, pp. 303–343, in part. p. 308. The Munakata lord’s power over such *myôshu* would have been precarious.

Kenpô 憲法 (see Art. 3 and the Epilogue), formerly read *kenbô*, meant “statute” in the Ritsuryô era, “public administrative law” from the Sengoku era onwards, and “Constitution” (read *kenpô*) from the Meiji era onwards, but in the Kamakura / Muromachi era “without bias”; thus IS has interpreted the word in his commentaries to the Munakata Code. This is reasonable, since the Epilogue already demands obedience to usual legal sources. For the other meanings, see s.v. *kenpô* in *Nihon kokugo daijiten* 日本国語大辞典, ISHII Ryôsu-ke in *Nihon hôseishi gaisetsu*, p. 66, and RÜTTERMANN: *Suganoura*, pp. 303–304.

Munakata Ujimori who signed the Code can also be read “Munakata Ujjishige”. *Shige* (= “luxuriant”) was more auspicious than *mori* (= “abundant”). But the recent and authoritative *Nihonshi daijiten* 日本史大辞典 (Tokyo, Heibonsha 1994), s.v. *Munakata shi kotogaki* 宗像氏事書, reads the given name “Ujimori”, and that will probably be the standard reading in the future. Though it is not relevant to the interpretation of the Code, the question may reasonably be asked how the Munakata territory fared under the successor (see commentary to Article 1), who as a grown-up first took the name Ujinaga and then Ujinori (IS). Not badly: the successor joined the ultimately successful Ashikaga side in the campaign which ended the Kenmu Restoration in 1336, and thus vanquished, with Ashikaga help, the then most dangerous rivals of the Munakata clan, the Kikuchi 菊池, who supported the anti-Ashikaga “Southern” claimants to the throne; see *Nihonshi Daijiten*, s.v. *Munakata gun* 宗像郡. This choice of sides may have contributed to the longevity, in spite of scattered and

difficult-to-defend possessions, of relative Munakata independence in the Ashikaga age.

Nengu (see Articles 2 and 6) was originally the land tax due to the government and was now the land rent due to the proprietor (*ryôke*) and / or to the noble patron (*honke*). But what broke the farmer's back were the *kuji* and other supplementary taxes, in particular product and labour duties to the *shôen* officials and to the *jitô*, because, in distinction to the *nengu*, they were arbitrary and more or less unpredictable, see NAGAHARA: "The Medieval Peasant", pp. 317–323. The *kuji* seem to have developed from commuted labour duties, see Peter Judd ARNESEN (an expert on Kyushu history): *The Medieval Japanese Daimyô. The Ôuchi Family's Rule of Suo and Nagato*, New Haven and London (Yale University Press) 1979, pp. 105–106. But there are other theories as well, see SATÔ Kazuhiko 佐藤和彦 et alii (eds.): *Nihon chûseishi kenkyû jiten* 日本中世史研究事典, Tokyo (Tôkyôdô) 1995, pp. 64–66. As for the interrelation of the the tax system with the development of the *myô* 名, and what the latter term came to mean in the various phases of the medieval period, the most transparent explanations remain, in my opinion, those found in NAGAHARA Keiji 永原慶二 et alii (eds.): *Chûseishi handobukku* 中世史ハンドブック, Tokyo (Kondô Shuppan) 1974, pp. 148, 153–156, and 158–161. Careful Western-language presentations of the medieval tax system, including its regional variations, are, for the ideological and technological foundations, the works by Keirstead and Troost, and for the actual administration and impact of the system, those by Taranczewski and Brochlos (for bibliographical details see Note 4 above). A fascinating general survey in a Western language of the exploitative nature of the tax system, with interesting details on Kyushu conditions, is Nagahara Keiji's chapter "The Medieval Peasant" in *The Cambridge History of Japan*, Vol. 3, pp. 301–343, in part. pp. 315–323. On the bakufu representatives in Kyushu, in particular, the *Chinzei tandai* 鎮西探題 (first in Dazaifu, later even nearer, in Hakata 博多), through whom the long and often rapacious arm of the Hôjô also reached down to the Munakata lords and their subjects, see ISHII Susumu: "The Decline of the Kamakura bakufu", in the same volume, pp. 128–174, in part. pp. 149, 155, 160, 205, 231, and 234–235.